

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

ERMA ALDABA, PERSONAL REPRESENTATIVE AND NEXT OF KIN TO JOHNNY MANUEL LEIJA, DECEASED,)	
		PLAINTIFF,
)	
vs)	Case No. CIV-12-85-JHP
)	
THE BOARD OF MARSHALL COUNTY COMMISSIONERS; JAMES ATNIP; STEVE BEEBE; Marshall County Sheriff ROBERT WILDER, in his individual and official capacity; THE CITY OF MADILL, a municipal corporation; BRANDON PICKENS; Madill Chief of Police JAMES FULLINGIM, in his individual and official capacity,)	
)	
		DEFENDANTS.
)	

ORDER TAXING COSTS

This Court entered two separate orders, the first on April 5, 2013 [Doc. No. 82], and the second on January 26, 2017 [Doc. No. 107], granting summary judgment in favor of several Defendants, including Defendant Brandon Pickens (hereinafter “Defendant Pickens”) and against Plaintiff, Erma Aldaba, Personal Representative and Next of Kin to Johnny Manuel Leija, Deceased (hereinafter “Plaintiff”). A judgment [Doc. No. 113] was entered herein on January 26, 2017, in favor of the Defendants and against the Plaintiff, pursuant to Rule 58 of the Federal Rules of Civil Procedure.

On February 9, 2017, Defendant Pickens timely filed a Bill of Costs [Doc. No. 116] and miscellaneous receipts and invoices [Doc. No. 116-1]. Defendant Pickens also filed a Brief in Support of his Bill of Costs [Doc. No. 117]. In summary, Defendant is a prevailing party and is therefore requesting the total amount of \$1,928.55 for costs. [*Id.* at 3].¹

¹ Defendants Board of County Commissioners of Marshall County, Oklahoma, James Atnip and Steve Beebe, as other prevailing parties, have filed a separate Bill of Costs and Brief in Support herein.

On February 23, 2017, Plaintiff filed her objection and response to Defendant Pickens' Bill of Costs [Doc. No. 119]. Plaintiff does not object to any particular cost. Rather, the Plaintiff summarizes the history of the case, asks the Court to consider her situation in light of the circumstances, claims the litigation was in good faith, and lastly, states "the interests of justice would be best served by allowing both parties to be responsible for their own costs." [*Id.* at 1-2]. The undersigned finds that the equitable nature of the points raised by Plaintiff are more appropriately a function of judicial review rather than administrative review by the undersigned.²

Having reviewed the record and the documentation submitted, the undersigned finds Defendant Pickens is entitled to have costs taxed in his favor in the total amount of \$1,928.55. In particular, Defendant Pickens is entitled to recover the transcript costs associated with the depositions of Olivia Barrera Arellano, Michelle McKinney, Matt Turvey, Dr. John Conley, Michela Pierce, Melissa Farmer, Jeremiah Preston, Marc Harrison, Robert Wilder, Steve Beebe, James Atnip and Erma Aldaba, as such deposition testimony was necessarily obtained for use in this case.

Accordingly, costs are taxed in favor of Defendant Brandon Pickens, and against Plaintiff, Erma Aldaba, Personal Representative and Next of Kin to Johnny Manuel Leija, Deceased, in the amount of \$1,928.55 and to be included in the judgment.

Dated this 30th day of March, 2017.



Patrick Keaney
Court Clerk
United States District Court
Eastern District of Oklahoma

² Rule 54(d)(1) of the Federal Rules of Civil Procedure provides that "[o]n motion served within the next 7 days, the court may review the clerk's action" with respect to taxation of costs.